

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 09-03-03

143 -

AGENDA SECTION: PUBLIC HEARINGS	ORIGINATING DEPT: PLANNING	ITEM NO. <i>E-7</i>
ITEM DESCRIPTION: Land Subdivision Permit (Preliminary Plat) #03-24 by Big DE Development to be known as Bandel North Second. The Plat proposes to subdivide 22.91 acres of land into 55 lots for residential development and 1 outlot. The plat also proposes right-of-way dedication for public roadways. The applicant is also requesting approval of a Substantial Land Alteration to permit site grading that will modify grades by more than 10 feet on portions of the property. The property is located east of the Bandel North First Subdivision and north of the Boulder Ridge Second Subdivision and allows for the continuation of Bandel Drive NW.		PREPARED BY: Theresa Fogarty, Planner

August 25, 2003

City Planning and Zoning Commission Recommendation:

The City Planning and Zoning Commission held a public hearing on August 13, 2003 to consider this preliminary plat.

Mr. Ward Opus of Bigelow Enterprises addressed the Commission. He stated that the applicant is in agreement with the staff-recommended conditions.

The Planning Commission found that this preliminary plat will conform with the applicable criteria with the following conditions or modifications:

1. The Plat shall be revised:

- a. **Outlot "A" the private roadway needs to be given a designation. Coordinate the roadway name with the Planning Department – GIS Division to prevent duplication of a roadway name.**
- b. **Correcting the face of the plat by changing "MOST NO'LY COR" to "MOST SO'LY COR" located in the upper left corner.**
- c. **Dedicating a 30' wide outlot mid-block connection between Lots 11 & 12 and Lots 32 and 33, Block 2. The owner shall be obligated to grade and construct a 10' wide bituminous pedestrian path for the connection, prior to dedication to the City.**
- d. **Dedicating controlled access along the entire frontage of both sides of Overland Drive NW, with the exception of any public road access locations approved through this plat, or the approved GDP for Hidden Oaks to the north of Overland Drive NW and along the entire frontage of Lot 16, Block 1 and Lot 39, Block 2, abutting Bandel Drive NW, and the entire frontage of Lot 1, Block 1, abutting Granite Drive NW.**

2. **Dedication of parkland shall be met via: Cash in lieu of land, as outlined in the July 25, 2003 Memorandum from the Rochester Park and Recreation Department.**
3. **Overland Drive NW and Flagstone Lane NW are less than 28 feet in width and shall be posted "No Parking" on one side of these streets. The cul-de-sac located on Flagstone Lane NW is less than 96 feet in diameter and shall be posted "No Parking".**
4. **Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to, substandard street reconstruction charges & Traffic Improvement District charges, stormwater management / Storm Water Management District (SWMD) charges, park dedication, traffic improvements, pedestrian facilities, right-of-way dedication, ownership & maintenance of open space / outlot(s), including Outlot A, access and extension of utilities for adjacent properties and contributions for public infrastructure.**

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

5. *Grading and Drainage Plan approval is required prior to submitting the final plat. The Owner has indicated participation in the City's Storm Water Management Plan (SWMP) and shall pay an applicable charge for the benefit of participation.*
6. *Pedestrian facilities shall be required, at the Applicant's expense, along both sides of all new public roadways within this property, including the public road frontage along any Outlots.*
7. *If the City's proposed construction of Overland Drive NW precedes the recording of Bandel North Second, the Owner shall upon request by the City, dedicate by separate document the entire right-of-way, and any needed temporary construction easements needed for said construction.*
8. *The applicant shall provide surety that guarantees the site will be fully restored after the completion of the excavation activity. Said surety must be provided prior to commencement of grading activities on the property*

Mr. Burke moved to recommend approval of Land Subdivision Permit (Preliminary Plat) #03-24 by Big DE Development to be known as Bandel North Second with staff-recommended findings and conditions. Mr. Quinn seconded the motion. The motion carried 8-0.

Mr. Burke moved to recommend approval of the Substantial Land Alteration based on the staff-recommended findings. Mr. Quinn seconded the motion. The motion carried 8-0.

Planning Department Recommendation:

See attached staff report, dated August 7, 2003.

Council Action Needed:

1. *The Council may approve, approve with conditions, or deny the land subdivision permit. The Council must make findings of fact based on the criteria included in the staff report. A motion to deny must include supporting reasons for a conclusion that at least one of the fifteen findings for denial in paragraph 61.225 can be made.*
2. *The Council should include a motion to adopt findings to support either approval or denial of the proposed Substantial Land Alteration Activity.*

Attachments:

1. Staff report, dated August 7, 2003.
2. Minutes of the August 13, 2003 CPZC Meeting.

Distribution:

1. City Administrator
2. City Attorney
3. Planning Department File
4. Applicant: This item will be considered sometime after 7:00 p.m. on **Wednesday**, September 3, 2003 in the Council Chambers at the Rochester / Olmsted County Government Center.
5. McGhie & Betts, Inc.

BANDEL NORTH SECOND

DESCRIPTION

All of OUTLOT 'B', Lot 1, Block 2 and Lot 1, Block 1, all in BOULDER RIDGE THIRD, Rochester, Minnesota.

ALSO:

That part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 107 North, Range 14 West, Olmsted County, Minnesota, described as follows:

Beginning at the southeast corner of said Quarter Quarter Section; thence South 88 degrees 30 minutes 17 seconds West, along the south line of said Quarter Quarter Section, 1109.80 feet to the southeast corner of BANDEL NORTH FIRST; thence North 13 degrees 01 minute 46 seconds West, along said west line, 987.36 feet; thence North 00 degrees 51 minutes 46 seconds West, along said west line, 253.03 feet to the most southerly corner of OUTLOT 'B' in said BANDEL NORTH FIRST; thence South 70 degrees 00 minutes 00 seconds East, 368.36 feet; thence southeasterly 292.37 feet, along a tangential curve, cascade southerly, radius of 750.00 feet, central angle of 22 degrees 02 minutes 30 seconds and the chord of said curve bears South 58 degrees 58 minutes 45 seconds East, 290.57 feet; thence South 47 degrees 57 minutes 30 seconds East, tangent to said curve, 990.24 feet to the east line of said Quarter Quarter Section; thence South 01 degree 12 minutes 30 seconds East, along said east line, 247.22 feet to the point of beginning.

Containing in all, 22.91 acres more or less.

BANDEL NORTH SECOND SITE DATA SUMMARY

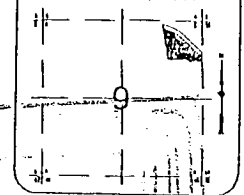
TOTAL ACREAGE	22.91
ACREAGE DEVOTED TO PUBLIC USE	6.93
NUMBER OF LOTS	55
NUMBER OF OUTLOTS	1

PRELIMINARY PLAT

OWNER & DEVELOPER
NO - DE DEVELOPMENT COMPANY

THIS ENGINEER'S PLAT is a preliminary plat for the subdivision and construction of all necessary improvements or easements and is subject to the approval of the Board of Commissioners of the City of Rochester, Minnesota, and to the approval of the State of Minnesota.

PROPERTY LOCATION MAP

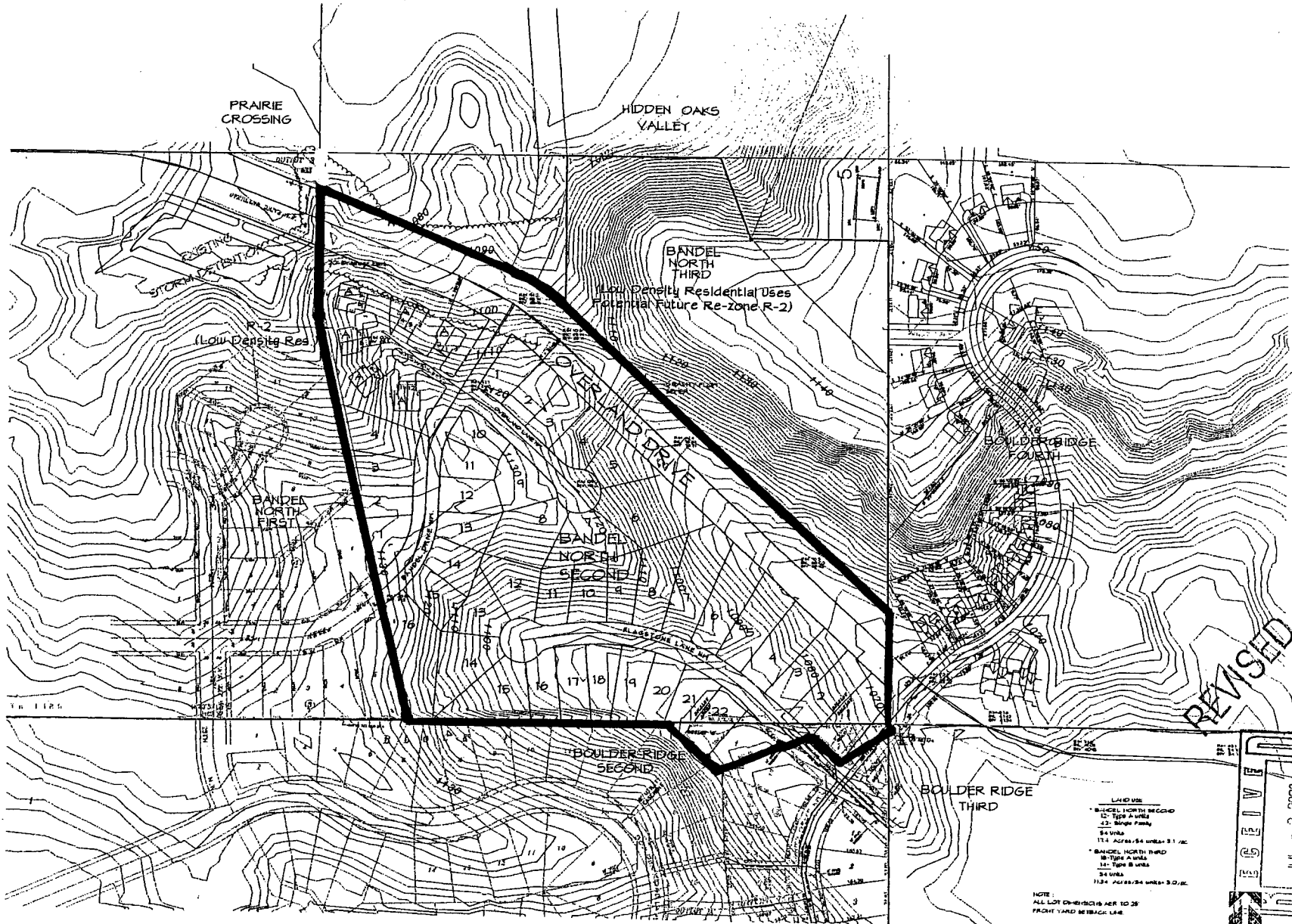


JUL 16 2003

ROCHESTER OLIMSTED
PLANNING DEPARTMENT

BANDEL NORTH SECOND

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BANDEL NORTH SECOND

McGraw-Hill
Betts, Inc.
 Land Surveying
 Urban-Land Planning
 Consulting - Civil
 Engineering
 Geotechnical Engineering
 Construction Material
 Testing
 Landscape Architecture

1818 Third Ave. S.E.
 Rochester, MN 55904
 Tel. 507.288.2819
 Fax 507.288.7333
 e-mail: mbs@mcgraw-hill.com

REVISIONS

No.	Description	Date

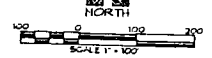
Drawn by: JLD
 Checked by: JLD
 Date: 07/18/03
 Scale: 1" = 100' Code No: 1004C/2345
 Plot No: 234500P

REVIS
GENERAL DEVELOPMENT PLAN
BANDEL NORTH SECOND & THIRD
 R-2 ZONE, MN.

REVIS
 JUL - 2 2003
 NORTH

- LAND USE**
- * BANDEL NORTH SECOND
 12- Type A units
 42- Single Family
 - * BANDEL NORTH THIRD
 18- Type A units
 14- Type B units
 34 units
 1134 per acre/34 units/3.0 ac.

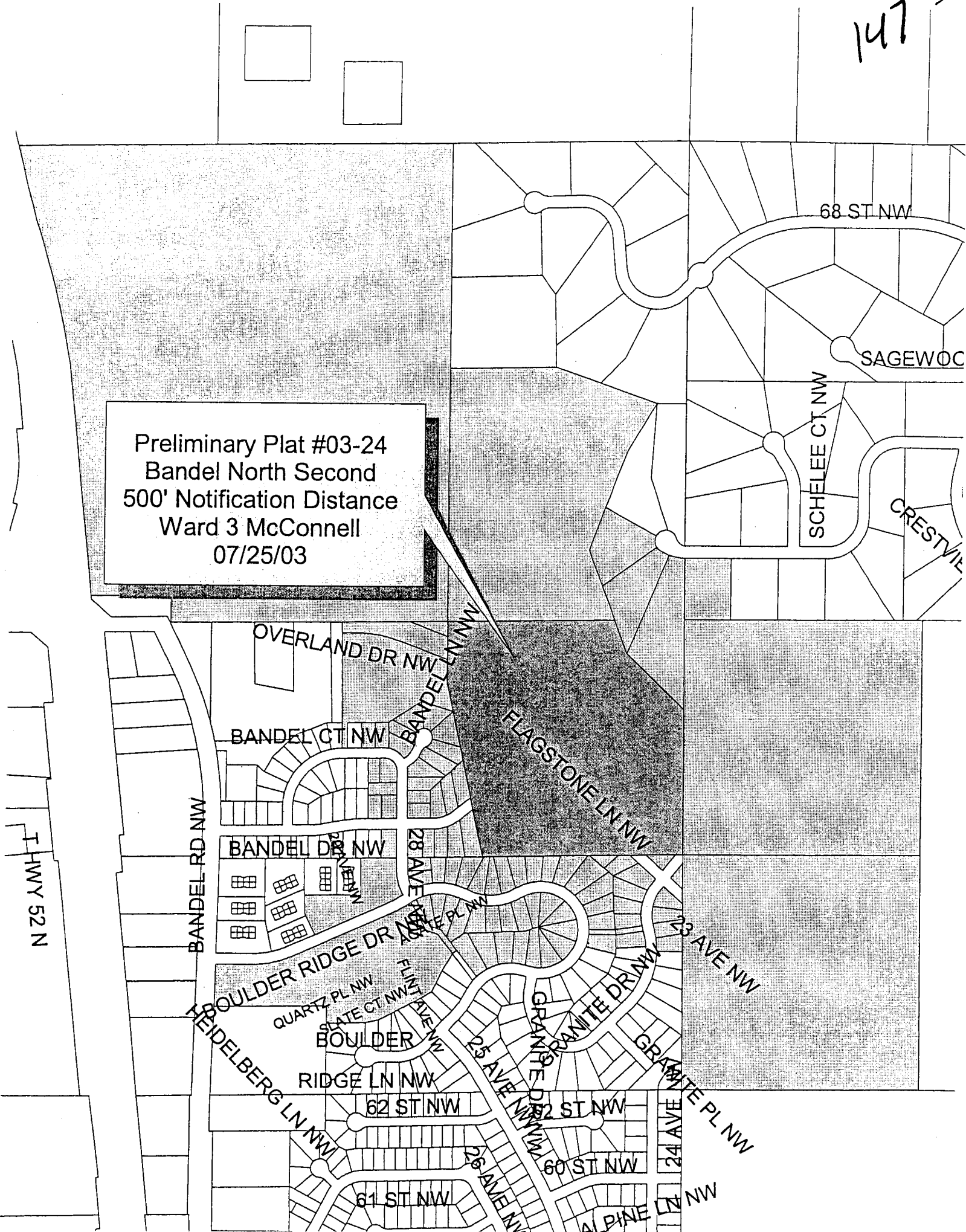
NOTE:
 ALL LOT DIMENSIONS ARE TO 25'
 FRONT YARD SETBACK LINE



1740

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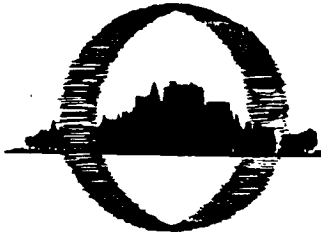
Preliminary Plat #03-24
Bandel North Second
500' Notification Distance
Ward 3 McConnell
07/25/03



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ROCHESTER-OLMSTED PLANNING DEPARTMENT

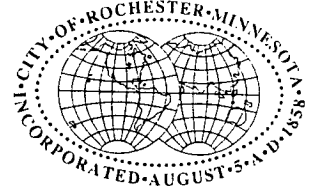
2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744



COUNTY OF

Olmsted

www.olmstedcounty.com/planning



TO: City Planning and Zoning Commission

FROM: Theresa Fogarty, Planner

DATE: August 7, 2003

RE: Land Subdivision Permit (Preliminary Plat) #03-24 by Big De Development to be known as Bandel North Second. The Plat proposes to subdivide 22.91 acres of land into 55 lots for residential development and 1 outlot. The plat also proposes right-of-way dedication for public roadways. The applicant is also requesting approval of a Substantial Land Alteration to permit site grading that will modify grades by more than 10 feet on portions of the property. The property is located east of the Bandel North First Subdivision and north of the Boulder Ridge Second Subdivision and allows for the continuation of Bandel Drive NW.

Planning Department Review:

Applicant/Owner: Big De Development
706 County Road 3 NW
Byron, MN 55920

Surveyors/Engineers: McGhie & Betts, Inc.
1648 Third Avenue SE
Rochester, MN 55904

Referral Comments: RPU Water Division
Park and Rec. Department
Rochester Public Works Department
Planning Department - Addressing staff
Rochester Fire Department

Report Attachments:

1. Land Development Manual Excerpts
2. Referral Comments (5 letters)
3. Location Map
4. Copy of Preliminary Plat
5. General Development Plan
6. Memo from McGhie & Betts, dated July 15, 2003.
7. Copy of Substantial Land Alternation Map

Development Review:

Zoning: The property is currently zoned R-1 (Mixed Single Family) district on the City of Rochester Zoning Map.



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Roadways:

This plat proposes to dedicate right-of-way for six roadways.

Outlot "A" the private roadway in this plat needs to be given a designation. Coordinate the roadway name with the Planning Department – GIS Division to prevent duplication of a roadway name.

Streets less than 36 feet in width shall be posted "No Parking" on one side of the street. Streets less than 28 feet in width shall be posted "No Parking" on both sides of the street. "Overland Lane NW" and "Flagstone Lane NW" are less than 36 feet in width and shall be posted "No Parking" on one side of these streets.

Cul-de-sacs less than 96 feet in diameter shall be posted "No Parking". The cul-de-sac located on "Flagstone Lane NW" is less than 96 feet in diameter and shall be posted "No Parking".

Controlled access shall be dedicated along the entire frontage of both sides of Overland Drive NW, with the exception of any public road access locations approved through this plat, or the approved GDP for Hidden Oaks Valley to the north of Overland Drive NW. Additional controlled access shall be dedicated along the entire frontage of Lot 16, Block 1 and Lot 39, Block 2, abutting Bandel Drive NW, and the entire frontage of Lot 1, Block 2, abutting Granite Drive NW.

If the City's proposed construction of Overland Drive NW precedes the recording of Bandel North Second, the Owner shall upon request by the City, dedicate by separate document the entire right-of-way, and any needed temporary construction easements needed for said construction.

Pedestrian Facilities:

In accordance with current City policy Pedestrian Facilities are required, at the applicant's expense, along both sides of all new public roadways within this property, including the public road frontage along any Outlots.

As stated in the approved General Development Plan: "At the time of platting, a mid-block pedestrian connection shall be provided between the two cul-de-sac bulbs, if determined feasible based on proposed subdivision grading". Staff is suggesting that a mid-block connection be placed within the easement located between Lots 11 & 12 and Lots 32 & 33, Block 2, widened to 30' feet and identified as an Outlot and deeded to the City.

Drainage:

Grading and Drainage Plan approved is required prior to submitting the final plat.

The property generally drains to the northwest.

The Owner has indicated participation in the City's Storm Water Management Plan and shall pay an applicable charge for the benefit of participation.

Wetlands:

Minnesota Statutes now requires that all developments be reviewed for the presence of wetlands or hydric soils.

The Soils Survey does not indicate hydric soils within this Plat.

Public Utilities:

Static water pressures within this area will range from 63 to 89 PSI. The builders must install pressure-reducing devices near the domestic water meters, as required by the Minnesota Plumbing Code.

An 8" water main must be extended across the future Overland Drive NW at the intersection of Bandel Drive NW to properly serve the area to the north.

Spillover Parking:

As per Section 63.426 of the LDM, all residential development must provide spillover parking for service vehicles and visitors. This development requires 66 spillover parking stalls. It appears as though the additional parking can be accommodated on the roadways and most likely within private driveways, as well.

Parkland Dedication:

The City Park and Recreation Department recommends that dedication requirements be met via: Cash in lieu and land with payment due prior to recordation of the final plat.

General Development Plan:

This property is included within the approved Bandel North Second and Third General Development Plan (GDP).

Substantial Land Alteration:

This application includes a request for approval of land disturbing activities defined as Substantial Land Alteration according to Section 61.1101, B of the Rochester Zoning Ordinance and Land Development Manual (LDM). Section 62.1102 of the LDM allows the City to consider a request for excavation or substantial land alteration as part of a Type III application, such as a preliminary plat, subject to making findings established in Section 62.1105 and 61.146 of the LDM.

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This development includes a proposal for fill work which involves a grade change of 10-feet or more from the pre-existing grades.. The approximate area where the grade is proposed to be changed are, Block 1, Lots 4 & 5, 16 and Block 2, Lots 9 & 10, 26-39 will be cut and Block 2, Lots 15 -21, will be filled. The maximum fill will be approximately 16 feet and the maximum cut will be approximately 20 feet.

Sections 61.146, 62.1102 and 62.1105 of the LDM are attached.

Staff Suggested Findings:

If the City Council approves the proposed substantial land alteration, staff recommends the following findings to Section 62.1105 and 61.146 of the Rochester Zoning Ordinance and Land Development Manual:

62.1105

- 1) The activity should not result in danger to life or property. Generally, the slopes will be regarded, to be suitable for residential uses. The grading and drainage plans will need to comply with City standards and be approved by the Rochester Public Works Department.
- 2) The grading plan for this project needs to be approved by the Rochester Public Works Department and it will document the extent of the work. All fill material exists on site and will be used to level the slopes within this plat to more suitable grades for residential uses. Noise and dust control will need to comply with City standards.
- 3) The equipment conducting the grading work on the property will also be the equipment utilized to move the earth. All materials will stay on-site, it will not be necessary to truck in fill or haul fill from the site, which will minimize the impact on the surroundings roads.
- 4) The proposed excavation work should not affect air quality or ground and surface water quality.
- 5) The proposed grading work should not adversely affect the scenic quality of Rochester. There will not be any steep slopes or exposed rock faces. The natural topography of the area is being re-graded to provide adequate slopes for residential uses.
- 6) The result of the proposed activity will be compatible with existing development and development anticipated in the future. The finished result of the grading work will allow for development that is consistent with the land use plan.
- 7) The grading will be confined to the property and should not affect the use and enjoyment of adjacent properties. The duration of the excavation activity is expected to be completed in one phase, taking approximately 12 weeks.
- 8) The grading will only take place during one phase, taking approximately 12 weeks. There are homes in the immediate area that will be visually affected by the grading activity, but only for a short time. Noise and dust control will need to comply with City standards.
- 9) The grading and drainage plan will need to provide the proper restoration and stabilization in accordance with the adopted codes for the City of Rochester.
- 10) The grading and drainage plans will need to be reviewed and approved by the City. Stormwater management will be required for the development.

- 11) The areas of grading do not contain sinkholes or wetlands and should not effect t the ground water or surface quality once restoration and stabilization is completed.
- 12) The grading work is expected to be completed in one phase, taking approximately 12 weeks. The duration seems appropriate for this type of activity and the size of the project.
- 13) The Rochester Public Works Department will need to review and approve the grading and drainage plan for this work. This plan must accommodate permanent and interim erosion and sediment control.
- 14) Surety will need to be provided that guarantees the site will be fully restored after the completion of the excavation activity. This surety can be provided through the owner-contract process for this development. If grading is to occur prior to an owner-contract, a separate surety will need to be provided.
- 15) The grading and drainage plan will need to be approved by the Rochester Public Works Department prior to any grading on the property.

The Planning Staff would suggest the following findings for Section 61.146:

- 1) Not applicable.
- 2) Not applicable.
- 3) Not applicable.
- 4) The Rochester Public Works Department will need to review and approve the grading and drainage plan for this work. This plan must accommodate permanent and interim erosion and sediment control.
- 5) Not applicable.
- 6) Not applicable.
- 7) Not applicable.
- 8) Not applicable.

Preliminary Plat Staff Review and Recommendation:

Section 61.225 of the Land Development Manual lists the findings which must be considered by the Planning Commission and the Council when reviewing a land subdivision permit application. This section is attached for your information.

The Planning staff has reviewed this preliminary plat request for compliance with the Rochester Zoning Ordinance and Land Development Manual including Section 61.225 of the LDM. A Development Agreement has been executed with the City, therefore the staff recommends approval with the following conditions / modifications:

1. The Plat shall be revised:

- a. ***Outlot "A" the private roadway need to be given a designation. Coordinate the roadway name with the Planning Department – GIS Division to prevent duplication of a roadway name.***

- b. **Correcting the face of plat by changing "MOST NO'LY COR" to "MOST SO'LY COR" located in the upper left corner.**
 - c. **Dedicating a 30' wide outlot mid-block connection between Lots 11 & 12 and Lots 32 & 33, Block 2. The owner shall be obligated to grade and construct a 10' wide bituminous pedestrian path for the connection, prior to dedication to the City.**
 - d. **Dedicating controlled access along the entire frontage of both sides of Overland Drive NW, with the exception of any public road access locations approved through this plat, or the approved GDP for Hidden Oaks to the north of Overland Drive NW and along the entire frontage of Lots 16, Block 1 and Lot 39, Block 2, abutting Bandel Drive NW, and the entire frontage of Lot 1, Block 1, abutting Granite Drive NW.**
2. **Dedication of parkland shall be met via: Cash in lieu of land, as outlined in the July 25, 2003 Memorandum from the Rochester Park and Recreation Department.**
3. **Overland Lane NW and Flagstone Lane NW are less than 28 feet in width and shall be posted "No Parking: on one side of these streets. The cul-de-sac located on Flagstone Lane NW is less than 96 feet in diameter and shall be posted "No Parking".**
4. **Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to, substandard street reconstruction charges & Traffic Improvement District charges, stormwater management / Storm Water Management District (SWMC) charges, park dedication, traffic improvements, pedestrian facilities, right-of-way dedication, ownership & maintenance of open space / outlot(s), including Outlot A, access and extension of utilities for adjacent properties and contributions for public infrastructure.**
5. **Grading and Drainage Plan approval is required prior to submitting the final plat. The Owner has indicated participation in the City's Storm Water Management Plan (SWMP) and shall pay an applicable charge for the benefit of participation.**
6. **Pedestrian Facilities shall be required, at the Applicant's expense, along both sides of all new public roadways within this property, including the public road frontage along any Outlots.**
7. **If the City's proposed construction of Overland Drive NW precedes the recording of Bandel North Second, the Owner shall upon request by the City, dedicate by separate document the entire right-of-way, and any needed temporary construction easements needed for said construction.**
8. **The applicant shall provide surety that guarantees the site will be fully restored after the completion of the excavation activity. Said surety must be provided prior to commencement of grading activities on the property.**

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Preliminary Plat #03-24
Bandel North Second
August 7, 2003

Reminder to Applicant:

- Prior to development, the property owner will need to execute a City / Owner Contract for construction of all public infrastructure and utilities to serve this subdivision.
- This Plat is subject to the Subdivision regulations which became effective May 15, 1999. Approved grading, drainage and construction plans will need to be submitted with the final plat application, if the applicant intends to record the final plat documents prior to completion of infrastructure improvements.

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CITY OF ROCHESTER
ZONING ORDINANCE AND LAND DEVELOPMENT MANUAL
EXCERPTS

61.225 Finding for Land Subdivision:

The Zoning Administrator, Commission or Council shall approve a development permit authorizing a land subdivision if all of the following findings with respect to the proposed development are made:

- A. The proposed land subdivision conforms to all relevant requirements of this ordinance and variances have been granted to permit any nonconformance.
- B. That the proposed water system and sanitary sewer system are adequate to serve the normal and fire protection demands of proposed development and to provide for the efficient and timely extension to serve future development.
- C. That the plan for soil erosion and stormwater management meets the adopted standards of the City of Rochester and is consistent with the adopted Stormwater Management Plan or adopted drainage or stormwater policies.
- D. That the vehicular and non-motorized system is consistent with adopted transportation plans and is consistent with the street layout standards listed in Section 64.120 and traffic service standards in Section 61.526.
- E. That the lot and block layout provide for safe and convenient vehicular, service and emergency access, efficient utility service connections, and adequate buildable area in each lot for planned uses.
- F. That the proposed land subdivision has taken into account the current 6-Year and other Long-Range Capital Improvements Programs and the elements listed therein in the design of the subdivision.
- G. That the proposed subdivision, if in a resident zoning district, -addresses the need for spillover parking consistent with the requirements of Section 63.426.
- H. That right-of-ways and easements of adequate size and dimensions are -provided for the purpose of constructing the street, utility, and drainage facilities needed to serve the development.
- I. That the proposed parks, trail thoroughfares and open space dedications are consistent with adopted plans, policies and regulations.
- J. That the proposed subdivision will not have off-site impacts on the street, drainage, water or wastewater systems that exceed adopted standards.
- K. That the proposed subdivision will not have adverse impacts on the safety or viability of permitted uses on adjacent properties.
- L. That the proposed land subdivision is designed in such a manner as to allow for continued development in an efficient manner on adjacent undeveloped lands.

Effective May 15, 1999

- M. That the soils, topography and water tables have been adequately studied to ensure that all lots are developable for their designated purposes.
- N. That the proposed land subdivision is consistent with the standards of the City's adopted Comprehensive Plan.
- O. That any land located within Zone A as shown as on the currently adopted Flood Boundary and Floodway Maps of the Flood Insurance Study, Rochester, Minnesota prepared by the Federal Emergency Management Agency, is -determined to be suitable for its intended use and that the proposed subdivision adequately mitigates the risks of flooding, inadequate drainage, soil and rock formations with severe limitation for development, severe erosion potential or any other floodplain related risks to the health, safety or welfare of the future residents of the proposed subdivision in a manner consistent with this ordinance.
- P. That the proposed land subdivision, if approved, would not result in a violation of federal or state law, or the city or county ordinance.

61.226 Conditions on Approvals:

In considering an application for development permit to allow a land subdivision, the approving body shall consider and may impose modification or conditions to the extent that such modifications or conditions are necessary to insure compliance with the criteria of Section 61.225.

Effective May 15, 1999

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Land Development Manual Excerpts Substantial Land Alteration

62.1102 Exempt Activities:

- 1) Except as required for a reclamation plan, which may be imposed on any of the following activities as part of any required City permit or approval process, the provisions of these Sections 62.1100 through 62.1113 shall not apply to the following activities:
 - a) The land area included within 15' or as reasonably defined by the City Engineer to allow soil stabilization of the identified boundaries of a building submitted for a building footing and foundation permit.
 - b) Stormwater management facilities or other public infrastructure approved by the City.
 - c) Excavations or blasting for wells, tunnels or utilities that have received all necessary governmental approvals.
 - d) Refuse disposal sites controlled by other applicable City, State or federal regulations.
 - e) On-going cemetery (burial) operations.
 - f) Development activity for which a general development plan, subdivision permit or other Type III approval has resulted in the review of the proposed cut and fill work and for which a grading permit is required. To qualify for this exemption, the Council shall have made the findings established in Section 62.1105.
 - g) Uses in the Central Development Core (CDC) District.

62.1105 Findings Necessary for Issuance of a Conditional Use Permit:

The City shall approve a conditional use permit authorizing an excavation activity only if all of the following findings with respect to the proposed activity are made, in addition to those listed in Section 61.146:

- 1) The activity will not result in a danger to life or property due to (1) steep or unstable slopes, (2) unsafe access to the property, (3) excessive traffic, or (4) proximity to existing or planned residential areas, parks and roadways;
- 2) Visual, noise, dust, and/or excessive on or off-site environmental impacts on public parks, roadways and residential areas can be adequately mitigated by the Applicant and a fully detailed plan is submitted by the Applicant to demonstrate the mitigation methods to be used, the cost of such mitigation, the source of funds for such mitigation, and adequate legal assurance that all of such mitigation activities are carried out.
- 3) The use of trucks and heavy equipment will not adversely impact the safety and maintenance of public roads providing access to the site, or such impacts will be mitigated;
- 4) The proposed use will not adversely affect air quality or ground water or surface water quality;

- 5) The proposed use will not adversely affect the scenic quality of Rochester or the natural landscapes, environment, wildlife and wildlife habitat; or if such effects are anticipated to occur, the reclamation plan provides for adequate restoration of the site following completion of the excavation activity;
- 6) The activity will be compatible with existing development and development anticipated in the future, including other uses as shown in the Comprehensive Plan, including but not limited to: patterns of land use, recreation uses, existing or planned development, public facilities, open space resources and other natural resources;
- 7) The activity will not unduly affect the use and enjoyment of adjacent properties;
- 8) The site plan provides for adequate buffers and screening year-round from unsightly features of the excavation operation;
- 9) The reclamation plan provides for adequate and appropriate restoration and stabilization of cut and fill areas;
- 10) The excavation activity will not result in negative impacts on drainage patterns or stormwater management facilities;
- 11) The proposed activity will minimize impacts on sinkholes, wetlands and other natural features affecting ground water or surface water quality;
- 12) The intensity and the anticipated duration of the proposed excavation activity is appropriate for the size and location of the activity;
- 13) Permanent and interim erosion and sediment control plans have been approved by the City;
- 14) Surety has been provided that guarantees the site will be fully restored, after completion of the excavation activity, to a safe condition, and one that permits reuse of the site in a manner compatible with the Comprehensive Plan, neighborhood plans, the Land Use Plan and applicable City policies;
- 15) The proposed activity complies with the requirements of the adopted building code.

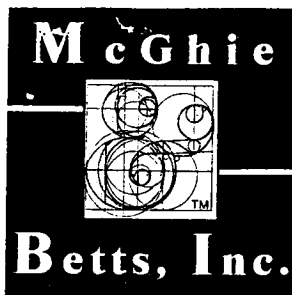
61.146 **Standards for Conditional Uses:** The zoning administrator, Commission, or Council shall approve a development permit authorizing a conditional use unless one or more of the following findings with respect to the proposed development is made:

- 1) Provisions for vehicular loading, unloading, parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways will create hazards to safety, or will impose a significant burden upon public facilities.
- 2) The intensity, location, operation, or height of proposed buildings and structures will be detrimental to other private development in the neighborhood or will impose undue burdens on the sewers, sanitary and storm drains, water or similar public facilities.
- 3) The provision for on-site bufferyards and landscaping does not provide adequate protection to neighboring properties from detrimental features of the development.

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- 4) The site plan fails to provide for the soil erosion and drainage problems that may be created by the development.
- 5) The provisions for exterior lighting create undue hazards to motorists traveling on adjacent public streets or are inadequate for the safety of occupants or users of the site or such provisions damage the value and diminish the usability of adjacent properties.
- 6) The proposed development will create undue fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles.
- 7) In cases where a Phase I plan has been approved, there is a substantial change in the Phase II site plan from the approved Phase I site plan, such that the revised plans will not meet the standards provided by this paragraph.
- 8) The proposed conditional use does not comply with all the standards applying to permitted uses within the underlying zoning district, or with standards specifically applicable to the type of conditional use under consideration, or with specific ordinance standards dealing with matters such as signs which are part of the proposed development, and a variance to allow such deviation has not been secured by the applicant.

61.147 **Conditions on Approval:** In considering an application for a development permit to allow a Conditional Use, the designated hearing body shall consider and may impose modifications or conditions to the extent that such modifications or conditions are necessary to insure compliance with the criteria of Paragraph 61.146.



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Rochester Minnesota

Land Surveying

Urban - Land Planning

Consulting - Civil Engineering

Geotechnical Engineering

Construction Material Testing

Landscape Architecture

July 15, 2003

Mr. Brent Svenby
Consolidated Planning Department
2122 Campus Drive
Rochester, MN 55904

RE: Exemption from Section 62.1101.2 (a) for Bandel North Second Subdivision

Dear Mr. Svenby:

Section 62.1101 of the Rochester Land Development Manual and Zoning Ordinance contains new standards for substantial land alteration projects. The grading of the Bandel North Second site will result in exceeding a 10-foot vertical cut and/or fill over various portions of the site. This project meets the definition of Section 62.1101.2.a.1(d) where the cut/fill involves a grade change of 10-feet or more from the pre-existing grades. The enclosed preliminary plat indicates the cut and fill areas on the site. The maximum fill would be approximately 16 feet and the maximum cut would be approximately 20 feet.

Section 62.1102.1.F provides for an exemption provided there are sufficient findings made as contained in 62.1105. The following are suggested findings in support of the request:

Section 62.1105(1-15).

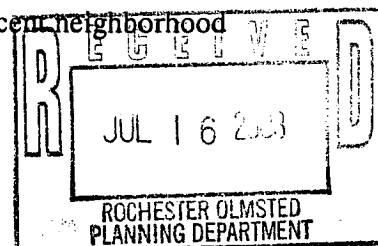
1. The activity necessary to grade the portions in excess of 10-foot vertical cut/fill will not result in unstable slopes or unsafe access. The slopes on the site will be a maximum of 3:1 and a portion of the grading would involve cuts or fills in excess of 10'.
2. The environmental impacts of grading on this site to adjacent properties will be minimal.
3. There is access to the site from the west and east. It will not be necessary to truck in fill or haul fill off of the site, which will minimize the impact on the surrounding roads.
4. The additional grading will not adversely affect air quality, the ground water, or surface water quality.
5. The natural topography of the area will be re-graded to provide adequate slopes for single - family dwellings for this development and the overall scenic quality will be maintained.
6. The grading is compatible with the proposed adjacent neighborhood developments.

1648 Third Avenue S.E.
Rochester, MN 55904

Tel. 507.289.3919
Fax. 507.289.7333

e-mail. mbi@mcghiebetts.com

Established 1946





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7. The grading will be confined to the Bandel North Second site, and will not unduly affect the use and enjoyment of adjacent properties.
8. The grading activity will take place in one phase taking approximately 12 weeks. There are homes in the immediate area that will be visually affected by the grading activity for only a short time during the grading process.
9. The grading plan will provide for proper restoration stabilization in accordance with the codes for the City of Rochester.
10. The grading will not result in negative impacts on the drainage patterns. The grading of the site is such that run-off is directed to appropriate locations in the street and handled through the City storm water plan.
11. The area of grading does not contain sinkholes and will not affect the groundwater or the subsurface water quality once restoration and stabilization is completed. The existing wetlands are proposed to be replaced on-site.
12. The grading of the site will take place in one phase taking approximately 12 weeks. This time frame is appropriate for the size and location of this activity.
13. Permanent and interim (during construction) erosion/sedimentation control will be provided for in the grading plan. The city will review and approve this city/owner contract.
14. A performance and payment bond is required for all work associated with the construction of the public improvements. This bond will be submitted with the city/owner contract.
15. This development will comply with the standards in the Land Development Manual and on file with Public Works.

Very truly yours,

McGHIE & BETTS INC.


Gregory R. Bond

GRB/bd

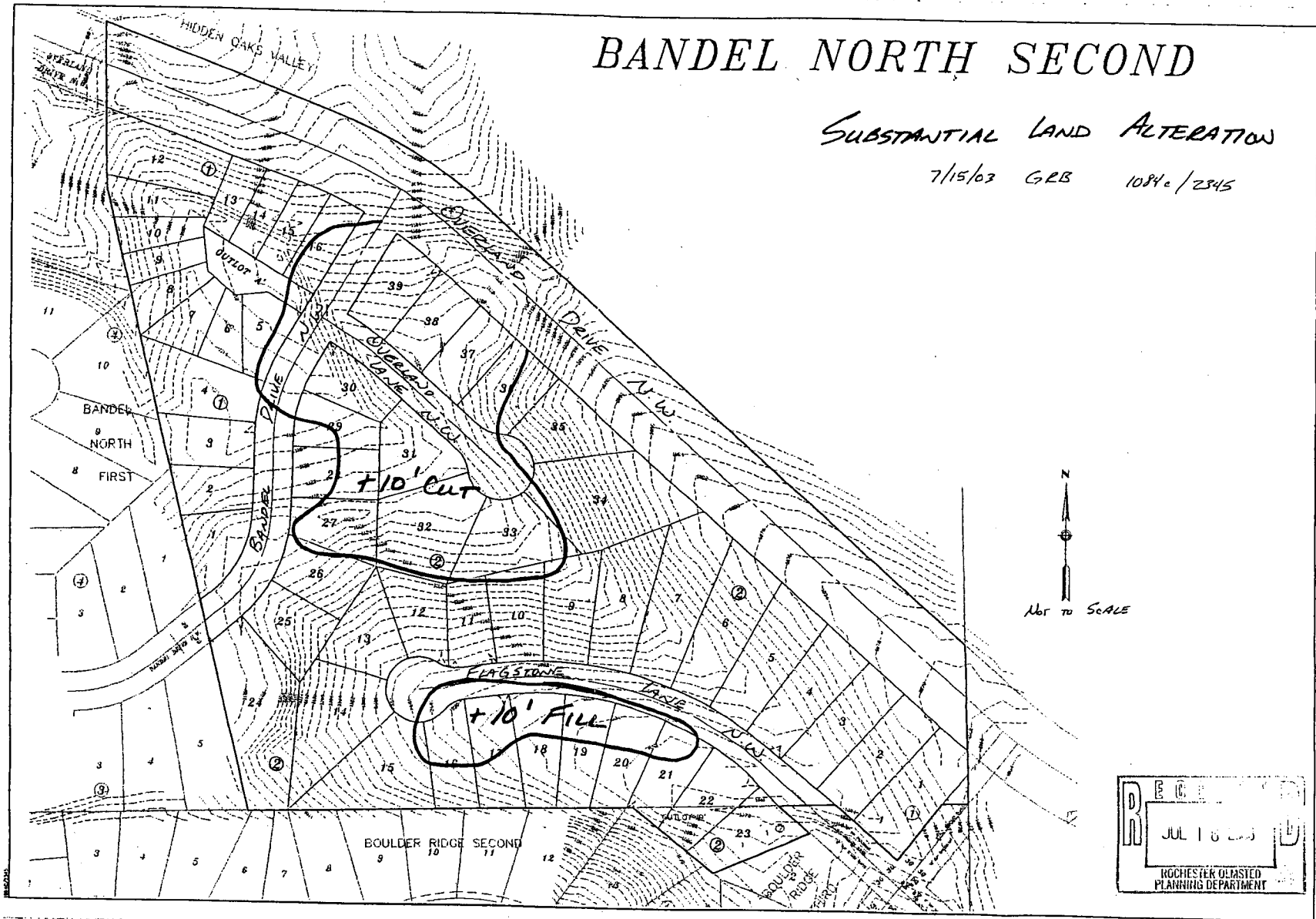
pc: Ward Opitz

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BANDEL NORTH SECOND

SUBSTANTIAL LAND ALTERATION

7/15/63 G.R.B. 1084c/2345



BANDEL NORTH SECOND



we pledge, we deliver

August 1, 2003

Rochester-Olmsted
CONSOLIDATED PLANNING DEPARTMENT
2122 Campus Drive SE
Rochester, MN 55904-7996

REFERENCE: Preliminary Plat #03-24 by Big DE Development to be known as Bandel North Second.

Dear Ms. Garness:

Our review of the referenced preliminary plat is complete and our comments follow:

1. Approximate static water pressures within this area will range from 63 PSI to 89 PSI. The builders must install pressure-reducing devices near the domestic water meters as required by the Minnesota Plumbing Code (buildings where the MFF is at or below elevation 1100).
2. An 8" water main must be extended across the future Overland Drive NW at the intersection of Bandel Drive NW to properly serve the area to the north.
3. Other minor revisions to the proposed water system layout are required. We have provided the applicant's engineering firm with these comments.

Please contact us at 507-280-1600 if you have questions.

Very truly yours,

A handwritten signature in black ink that reads 'Donn Richardson'. The signature is written in a cursive, flowing style.

Donn Richardson
Water

C: Doug Rovang, RPU
Mike Engle, RPU
Mark Baker, City Public Works
Vance Swisher, Fire Prevention Bureau
Gary Schick, Building & Safety
McGhie & Betts, Inc.
Big DE Development

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ROCHESTER PARK AND RECREATION DEPARTMENT
201 FOURTH STREET SE
ROCHESTER MINNESOTA 55904-3769
TELE 507-281-6160
FAX 507-281-6165

MEMORANDUM

DATE: July 25, 2003
TO: Jennifer Garness
Planning
RE: Bandel North 2nd
Preliminary Plat # 03-24

Acreage of plat.....	22.91 a
Number of dwelling units.....	55 units
Density factor.....	.0244
Dedication	1.34 a
Fair market value of land.....	\$15,000/a

The Park and Recreation Department recommends that dedication requirements be met via: Cash in lieu of land with payment due prior to recordation of the final plat.

Big De Development
706 County Road 3 NW
Byron MN 55920

ROCHESTER

— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

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DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: 8/6/03

The Department of Public Works has reviewed the application for Preliminary Plat #03-24 & Substantial Land Alteration for the proposed Bandel North Second development. The following are Public Works comments on this request:

1. Unless surety for Substantial Land Alteration restoration is specifically included in the Contractor's Bonds for the City-Owner Contract for this project, the Owner will be required to provide separate surety in an amount and in a form acceptable to the City Engineer, prior to Grading Plan approval.
2. Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to, substandard street reconstruction / TID charges, stormwater management / Storm Water Management District (SWMD) charges, park dedication, traffic improvements, pedestrian facilities, right-of-way dedication, ownership & maintenance of open space / outlot(s), access and extension of utilities for adjacent properties, and contributions for public infrastructure.
3. The Owner has indicated that it wishes to participate in the City's Storm Water Management Plan (SWMP) and pay an applicable charge for the benefit of participation.
4. Outlot 'A' shall remain private, and ownership and maintenance will be addressed in the Development Agreement.
5. Pedestrian facilities will be required, at the Applicant's expense, along both sides of all new public roads within this property, including the public road frontage along any Outlots.
6. Execution of a City-Owner Contract is required prior to Construction of public infrastructure to serve this development.

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ROCHESTER

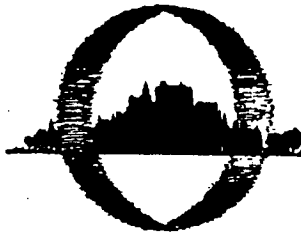
— Minnesota —

TO: Consolidated Planning Department
2122 Campus Drive SE
Rochester, MN 55904

DEPARTMENT OF PUBLIC
WORKS
201 4th Street SE Room 108
Rochester, MN 55904-3740
507-287-7800
FAX – 507-281-6216

FROM: Mark E. Baker

7. If the City's proposed construction of Overland Drive NW precedes the recording of Bandel North Second, the Owner shall upon request by the City, dedicate by separate document the entire right-of-way, and any needed temporary construction easements needed for said construction.
 8. Controlled access shall be dedicated along the entire frontage of both sides of Overland Drive NW, with the exception of any public road access locations approved through this plat, or the approved GDP for Hidden Oaks Valley to the north of Overland Dr NW. Additional controlled access shall be dedicated along the entire frontage of Lot 16, Block 1, and Lot 39, Block 2, abutting Bandel Dr NW, and the entire frontage of Lot 1, Block 2, abutting Granite Dr NW.
 9. Preliminary Construction Plan comments will be provided separately to the Developer's Engineer.
- ❖ Charges/fees applicable to the development of this property will be addressed in the Development Agreement.



COUNTY OF
Olmsted



Rochester-Olmsted Planning Department
GIS/Addressing Division
2122 Campus Drive SE
Rochester, MN 55904-4744
Phone: (507) 285-8232
Fax: (507) 287-2275

PLAT REFERRAL RESPONSE

DATE: July 28, 2003

TO: Jennifer Garness

FROM: Randy Growden
GIS/Addressing Staff
Rochester-Olmsted County
Planning Department

CC: McGhie & Betts Inc.

**RE: BANDEL NORTH SECOND
PRELIMINARY PLAT #03-24**

A review of the **preliminary plat** has turned up the following **ADDRESS** and **ROADWAY** related issues.

NOTE: Outlot "A" or the private roadway in this plat needs to be given a designation. Coordinate the roadway name with our staff so duplication doesn't occur.

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The hand to reach for...
DAVID A. KAPLER
Fire Chief

DATE: July 28, 2003

TO: Jennifer Garness, Planning

FROM: R. Vance Swisher, Rochester Fire Department

SUBJ: Land Subdivision Permit (Preliminary Plat) #03-24 by Big DE Development to be known as Bandel North Second.

With regard to the above noted project plan, the fire department has the following requirements:

1. An adequate water supply shall be provided for fire protection including hydrants properly located and installed in accordance with the specifications of the Water Division. Hydrants shall be in place prior to commencing building construction.
 2. Streets and roadways shall be as provided in accordance with the fire code, RCO 31 and the Zoning Ordinance and Land Development Manual. Emergency vehicle access roadways shall be serviceable prior to and during building construction.
 - a) Streets less than 36 feet in width shall be posted "No Parking" on one side of the street. Streets less than 28 feet in width shall be posted "No Parking" on both sides of the street. Overland Lane NW and Flagstone Lane NW shall be posted "No Parking" on one side of these streets.
 - b) Cul-de-sacs less than 96 feet in diameter shall be posted "No Parking". The Cul-de-sac located on Flagstone Lane NW is less than 96 feet in diameter and shall be posted "No Parking".
 3. All street, directional and fire lane signs must be in place prior to occupancy of any buildings.
 4. All buildings are required to display the proper street address number on the building front, which is plainly visible and legible from the street fronting the property. Number size must be a minimum 4" high on contrasting background when located on the building and 3" high if located on a rural mail box at the public road fronting the property. Reflective numbers are recommended.
- c: Donn Richardson, RPU, Water Division
Mark Baker, Rochester Public Works.
Big De Development
McGhie & Betts, Inc

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9. Stormwater Management is required for this Development. Any stormwater facilities serving less than 50 developable acres shall remain private and shall require the execution of a Maintenance & Ownership Agreement, and applicable Drainage and Access Easement(s). A Stormwater Management Fee shall be applicable to any areas of this property that do not drain to an approved privately constructed on-site detention facility.
10. A Wetland Delineation report shall be submitted to the City for review. It appears that a Wetland Replacement Plan appears to be necessary, based on the preliminary plat.
11. The applicant shall provide surety that guarantees the site will be fully restored after the completion of the excavation activity. Said surety must be provided prior to commencement of grading activities on the property.

Mr. Haeussinger moved to approve the Substantial Land Alteration with staff-recommended findings. Mr. Quinn seconded the motion. The motion carried 8-0.

X Land Subdivision Permit (Preliminary Plat) #03-24 by Big DE Development to be known as Bandel North Second. The Plat proposes to subdivide 22.91 acres of land into 55 lots for residential development and 1 outlot. The plat also proposes right-of-way dedication for public roadways. The applicant is also requesting approval of a Substantial Land Alteration to permit site grading that will modify grades by more than 10 feet on portions of the property. The property is located east of the Bandel North First Subdivision and north of the Boulder Ridge Second Subdivision and allows for the continuation of Bandel Drive NW.

Mr. Brent Svenby presented the staff report, dated August 7, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Ms. Wiesner asked if the grades for Overland Drive had been determined.

Mr. Svenby referred the question to the applicant's consultant.

Mr. Ward Opus, of Bigelow Enterprises, addressed the Commission. He stated that the cut and grade had been established for Overland Drive. He stated that the applicant is in agreement with the staff-recommended conditions.

Ms. Rivas asked how Lot 11 and 12 would be reached.

Mr. Opus stated that there would be a driveway access easement and that the association would be involved.

Mr. Dan Nichols, of 2695 Boulder Ridge Drive NW, Rochester MN, addressed the Commission. He indicated that his property backs up to the south end of the property. He indicated that there are a row of mature trees in that area and a drainage area. He asked if the mature trees would be torn down with the grading.

Mr. Opus responded that they hadn't designed the grading plan but were going to save as many trees as possible. He indicated that he did not think that the grading would reach the very south end of the property, where the trees are located.

Mr. Nichols expressed concern with the natural grade along the mature trees, where some drainage occurs.

Mr. Opus and Mr. Nichols discussed where the trees were located and drainage.

With no one else wishing to be heard, Ms. Wiesner closed the public hearing.

Mr. Burke moved to recommend approval of Land Subdivision Permit (Preliminary Plat) #03-24 by Big DE Development to be known as Bandel North Second with the staff-recommended findings and conditions. Mr. Quinn seconded the motion. The motion carried 8-0.

CONDITIONS:

1. The Plat shall be revised:
 - a. Outlot "A" the private roadway need to be given a designation. Coordinate the roadway name with the Planning Department – GIS Division to prevent duplication of a roadway name.
 - b. Correcting the face of plat by changing "MOST NO'LY COR" to "MOST SO'LY COR" located in the upper left corner.
 - c. Dedicating a 30' wide outlot mid-block connection between Lots 11 & 12 and Lots 32 & 33, Block 2. The owner shall be obligated to grade and construct a 10' wide bituminous pedestrian path for the connection, prior to dedication to the City.
 - d. Dedicating controlled access along the entire frontage of both sides of Overland Drive NW, with the exception of any public road access locations approved through this plat, or the approved GDP for Hidden Oaks to the north of Overland Drive NW and along the entire frontage of Lots 16, Block 1 and Lot 39, Block 2, abutting Bandel Drive NW, and the entire frontage of Lot 1, Block 1, abutting Granite Drive NW.
2. Dedication of parkland shall be met via: Cash in lieu of land, as outlined in the July 25, 2003 Memorandum from the Rochester Park and Recreation Department.
3. Overland Lane NW and Flagstone Lane NW are less than 28 feet in width and shall be posted "No Parking: on one side of these streets. The cul-de-sac located on Flagstone Lane NW is less than 96 feet in diameter and shall be posted "No Parking".
4. Prior to Final Plat submittal, the applicant shall enter into a Development Agreement with the City that outlines the obligations of the applicant relating to, but not limited to, substandard street reconstruction charges & Traffic

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Improvement District charges, stormwater management / Storm Water Management District (SWMD) charges, park dedication, traffic improvements, pedestrian facilities, right-of-way dedication, ownership & maintenance of open space / outlot(s), including Outlot A, access and extension of utilities for adjacent properties and contributions for public infrastructure.

5. Grading and Drainage Plan approval is required prior to submitting the final plat. The Owner has indicated participation in the City's Storm Water Management Plan (SWMP) and shall pay an applicable charge for the benefit of participation.
6. Pedestrian Facilities shall be required, at the Applicant's expense, along both sides of all new public roadways within this property, including the public road frontage along any Outlots.
7. If the City's proposed construction of Overland Drive NW precedes the recording of Bandel North Second, the Owner shall upon request by the City, dedicate by separate document the entire right-of-way, and any needed temporary construction easements needed for said construction.
8. The applicant shall provide surety that guarantees the site will be fully restored after the completion of the excavation activity. Said surety must be provided prior to commencement of grading activities on the property.

Mr. Burke moved to recommend approval of the Substantial Land Alteration with the staff-recommended findings. Mr. Quinn seconded the motion. The motion carried 8-0.

Type III, Phase II Incentive Development Preliminary Plan #03-44 and Variance #03-17, by Holy Anargyroi Greek Orthodox Church to permit the construction of a church and the renovation of the existing church. The applicant is also request a number of variances relating to setbacks, parking, landscape area and building height. The property is located on the west side of 7th Avenue NW and along the north side of West Center Street.

Mr. Brent Svenby presented the staff report, dated August 8, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Mr. Svenby discussed the parking agreements with Dr. Lund and Lourdes High School for an additional 55 spaces at each location.

Mr. Svenby recommended striking condition number 4, as the information was submitted by the consultant.

Mr. Staver asked what the required parking would be.

Mr. Svenby responded 70 spaces.

Mr. Haeussinger asked if the parking agreements are only for Sundays.

Mr. Svenby responded yes. He indicated that there would be 16 spaces on their site and parking on street is available during the week.

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